

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4754-01
Bill No.: SB 1306
Subject: Environmental Protection; Mining
Type: Original
Date: March 15, 2004

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2005	FY 2006	FY 2007
Total Estimated Net Effect on General Revenue Fund	\$0	\$0	\$0

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2005	FY 2006	FY 2007
Total Estimated Net Effect on <u>All</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 6 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2005	FY 2006	FY 2007
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2005	FY 2006	FY 2007
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials with the **Department of Conservation, Department of Transportation** and **Office of Administration - Division of Design and Construction** assume no fiscal impact to their agencies.

Officials with the **Department of Natural Resources** assume the Land Reclamation Act already contains appeals processes including informal conferences, presentations to the Commission, formal hearings and of course judicial review. This proposal sets up a separate appeals process just for commercial developers. This will require significant effort on the behalf of the Land Reclamation Program (LRP), for which no revenue is received.

It is unknown what would be involved to meet the requirements of the proposed process (investigation to determine the facts of each individual situation, processing administrative issues such as enforcement, variances, presentations to the commission, etc., appeal activities, such as an informal conference).

ASSUMPTION (continued)

The number of appeals that would be filed is unknown. It is also unknown what level of complexity of issues would be brought and the amount of time that would be required to resolve those issues. Therefore, the department is unable to determine the fiscal impact from this proposal.

Oversight assumes this would be accomplished during the normal budgetary process. Therefore, Oversight assumes the initial administrative impact of this proposal is \$0.

<u>FISCAL IMPACT - State Government</u>	FY 2005 (10 Mo.)	FY 2006	FY 2007
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

<u>FISCAL IMPACT - Local Government</u>	FY 2005 (10 Mo.)	FY 2006	FY 2007
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

Yes. This may have a negative impact on quarry operations who may not be able to compete with the developers who sell their rock materials.

DESCRIPTION

This act expands the definitions in Section 444.765 to include, "commercial purpose", "construction", "excavation", "fill dirt", "land improvement", "mining", "public entity", "quarry" and adds to the standing definition of "surface mining" to clarify that such mining shall not mean excavations of minerals or fill dirt from real property in preparation for construction.

Powers of the Commission are expanded upon in this act, language clarifying that the Commission shall have no authority to regulate the excavation of minerals or fill dirt for construction purposes. The Commission shall not have the authority to regulate commerce in the

DESCRIPTION (continued)

sale of minerals, this includes enforcing regulations or policies protecting or establishing markets for operators of surface mining. The powers authorized in this act shall be utilized to promote the reclamation of land from surface mining for the purposes of conservation.

This act states that no person, public entity, or contractor shall be required to obtain a permit to move mineral or fill dirt within the confines of real property where the excavation occurs for the primary purpose of construction at the site of the excavation. It shall be presumed that excavations are for the purposes of construction if:

- (1) Excavation is performed pursuant to engineering plans for construction on the real property provided those plans were prepared by an architect, professional engineer or landscape architect;
- (2) There is a written contract for work which establishes the date(s) for work, terms of payment for the work, and requires excavation for purposes of construction;

This act states that any person engaged in land improvement involving the moving of minerals or fill dirt may or may not be required to obtain a permit pursuant to a determination by the Commission as to whether activity on the real property constitute surface mining. It shall be presumed that such activities if:

- (1) The real property has been designated as a surface mine by the federal Mine Safety and Health Administration;
- (2) Minerals from the property are sold on a frequent on- going basis;
- (3) A pit, peak or ridge persists on the property as consistent with plans for land improvement and which endangers the health, safety or welfare of the general public.

It shall be presumed that such activities are not for the purposes of mining if:

- (1) The real property has been approved by a recognized zoning authority for designated use other than as a quarry;
- (2) Surety bonds have been provided by the property owner as required for purposes of development;
- (3) Performance or payment bonds have been provided by a contractor as required by a public entity pursuant to Section 107.170, RSMo;

DESCRIPTION (continued)

(4) The land improvement is for the purpose of preparing the property for agricultural purposes.

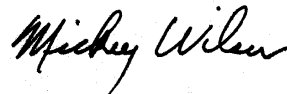
This act states that if a determination is made that a surface mining permit is needed for real property which is purported to be for the purposes of construction, such determination shall be communicated to the property owner. That notification is laid out in the act.

Finally, this act authorizes the imposition of additional penalties up to double the cumulative total of penalties levied by this act.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Department of Natural Resources
Department of Conservation
Department of Transportation
Office of Administration -
Division of Design and Construction



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Director

L.R. No. 4754-01
Bill No. SB 1306
Page 6 of 6
March 15, 2004

March 15, 2004

VL:LR:OD (12/02)